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Attorneys for Defendant FUECHTENER

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,) 2:16-cr-100-GMN-CWH
)
)
Plaintiff,)
)
v.)
)
JAN ROUVEN FUECHTENER,)
)
Defendant.)
)

MOTION FOR MISCELLANEOUS RELIEF

Defendant herein, JAN ROUVEN FUECHTENER, by and though his attorneys of record, JESS R. MARCHESE, ESQ., and BENJAMIN DURHAM, ESQ., hereby files this motion for miscellaneous relief. Specifically, Mr. Fuechtener requests that he be moved from the Henderson Detention Center to CCA's Nevada Southern Detention Center in Pahrump, Nevada.

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STATEMENT OF FACTS

Defendant Jan Rouven Fuechtener is currently incarcerated in the Henderson Detention Center awaiting sentencing in March of 2017. He is currently in protective custody and locked down 23 hours a day. In addition, the Henderson facility does not offer tools for Federal legal research.

Based upon Mr. Fuechtener's inability to assist his defense with his sentencing, he asked counsel to have him moved to the Pahrump facility so that he can research the applicable sentencing guidelines and statutes. The undersigned has contacted counsel for the United States and they take no position on this issue so long as the defendant remains incarcerated pending sentencing.

On four separate occasions, the undersigned contacted the United States Marshals in reference to moving Mr. Fuechtener. The first three times resulted in counsel leaving a message to call him and no one from the Marshals calling him back. Then, on December 14, 2016, six days after leaving the fourth message, a representative from the Marshals called back. When apprising the caller of the situation (specifically the law library topic), he said he would call counsel back later in the day.

As promised, the same individual contacted counsel to let counsel know that he read the Constitution and could not find the section that counsel was referring to. Counsel cited and read him the holding of Bounds vs. Smith 430 U.S. 817 (1977) case over the phone which held that inmates are to have legal assistance and counsel made available to them while incarcerated. Counsel was then told by the Marshal's Office that this was unacceptable and that counsel would have to email or fax proof of the case law. Specifically counsel was told, "I can tell you that I am 6'5, 360 lbs, and as strong as an ox, but until you see it you can't believe it." Further, counsel was also told by the representative that there was no reason for Mr. Fuechtener to need the law library as he was already sentenced.

At this point, the defendant would ask that the Court order that he be moved to the Pahrump facility. Although the Marshal's Office also told counsel there was a "security

1 concern" with Mr. Fuechtener being housed in Henderson (they refused to explain further), this
2 can certainly be addressed as he never has contact with other inmates.

3 Based upon this, the defendant asks that you grant his motion and have him moved to the
4 CCA facility (Nevada Southern Detention Center) in Pahrump.

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6 DATED this 20th day of December, 2016,

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9 /S/
10 JESS R MARCHESE, ESQ.
11 601 S. Las Vegas Blvd.
Las Vegas, Nevada 89101
Attorney for Defendant FUECHTENER

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14 **CERTIFICATE OF SERVICE**

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16 I hereby certify that I am an employee of the MARCHESE LAW OFFICES, and that on
the 20th day of December 2016, I served a copy of the foregoing: **DEFENDANT'S MOTION**
17 via the CM/ECF system upon the following.

18 **Government Counsel:**

19 Ms. Elhan Rouhani, Esq.
20 Ms. Lisa Cartier-Giroux, Esq.

21
22 /S/
23 *an employee of Marchese Law Offices*.